THE HAND-MAID OF REPEN-

TANCE.

A SHORT TREATISE
OF RESTITUTION.

Written by ARTH: DENT, Minister of Gods word at Southshoobery in Essex.

As a necessary Appendix to his Sermon of Repentance.

Printed for Thomas Thorp.

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TO THE CHRIstian Reader.



of that religious and learned Teacher M^r. Dent, towardes the edifi-

cation of Gods house, in the exhortation of his people vnto holinesse of life; as it hath sufficiently approued it selfe to the generall view of the World in diuers worthy workes of his now, extant: so by the consent of ma-

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ny deuout and iudicious Christians, it hath not in any one peece or other of his doing, more fully aud trul expressed it selfe; than in that Sermon which himselfe first preached, and afterwardes caused to be published, ropon Repentance. It might have been supposed, that this delicate Age of ours would scarcely haue put on fo rough a garment. But the vertuous cunning of that excellent Artist, had so thicke overlaced the fame with heavenly promises and comfortable perswasions: that although at the first aflaying thereof, it found it selfe inwardly prickt and perturbed; yet after a little wearing, and by daily

daily vie, the straightnesse there. of became both profitable and pleasing, and it reioyced not a little to be so happily deceived. Behold heere another peece of Worke, made by the fame hand, A Short Treatise of Restitution: Array thy selfe likewise (good Christian) with this Vesture; being indeed an Ornament, which wilkmake the rest of thy cloathing appeare more gracious. This is the true Touch-stone which tries thy repentance; and giues thee to God and the world either a true Christian, or a counfeit. Be not afraid to vseit : but as thou hast vouchsafed the former, of Repentance, to weare in

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thine heart, and hast thereby no doubt (if thou be a Christian) receiued great consolation; so let this latter, of Restitution, be as a Posie in thine hand, to thy more affured & greater comfort. This is the furniture which renders the guest acceptable at the heauenly marriage. If then thou defireft to bee welcome to that Feast, enter thus suited. Now forasmuch as this so necessary and Christianlike a worke, penned by so singuler a Minister of the Gospell, and so much conducting to eternall bliffe, hath by Gods goodnes come vnto my hands: and confidering that Repentance is of small force where Restituti-

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on is wanting, as being the onely Key which openeth the way vnto Remißion; I held my selfe bound in Christian Charity, to communicate the same vnto my Brethren. Such Talents must not be hid, but put to vsury, that they may be increast with profit. Praise God for the Author of so good a worke; and vse it to the redifying of thine owne conscience, that God may be glorified; which is the accomplishment of my defire. Farewell in the Lord.

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A TREATISE OF RESTITUTION.

Matter.



He matter subject of Kestitution is the fold: the sirst, satisfaction so things taken from the Dwner: the second, of damage sussained; the third, of

iniuries offered. In all these Cales, a carefull Christian ought to make Restitution, in manner and some as hareafter followeth: these circumstances considered.

C:reum-

Circumstances.

Who, and to whom,
what, and how much,
Where, when, and how,
thou should'st restore,
Consider well:
this will thee teach
A Lesson good,
for rich and poore.

Manner.

Touching the first part of matter taken, we must be be taken from the owner two wayes: bizeither violently, or boluntarily; as by rapine, thest, see boluntarily, as when a man borrowing any thing, received it at the owners hands. As the taking the one, is miurious: so the detaining of the other, is malicious.

Daning thus biefely spoken of the matter, wherein Restitution is to be made: let be now proceed to entreat of the circumstant

cumitances, and that most bræfely, in oper, thus.

Persons who.

Enery one is bound to make Restitution, who hath beine the cause of wrongfull taking: and where the persons are many, every one ought to restore.

Ten wates may a man be the cause of woongfull taking another mans goods, so which he is to make restitution.

1

He must restore
that others goods doth take;
As he also
that substitute doth make.
The Vsurer,
his Servant sends for bands,
To wound a man,
another he commands.
The Maisters heere
the Servants doe compell,

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Not to obey,
as much as to rebell.
Therefore in these,
the Maister is to blame
For Servants faults;
amends then make for shame.

Or doth approue
what in his name was done,
He must restore;
and not the time prolong:
Of rash attempts,
Repentance followes soone.

Ill counsell oft
moues many one to ill:
Therefore beware;
to counsaile is to kill.

Consent, as cause, in mischiese must be taken:

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Therefore tis good, ill counsaile were forsaken.

5

Beware of praise:
commend not one in sinne;
One mischeese done,
another doth begin.

Hee that in ill
with others hath a share;
To make amends,
in conscience must prepare.

7

He that receives, from theft will not refraine,

8

Stolne goods conceal'd, embolden Theeues againe.

Not

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Not to relift, or stay a bad intent

Is judged as much, as for to give confent.

Persons to whom Restitution is to be made.

If the thing taken or with-holden, be any mans proper gods only; then it mult bee restored to the right owner. But in case a publike person, either Civill or Eccelesiasticall, wast or make spoils of things belonging to their place. Restitution must bee made but the place, whereunts the matter belongeth.

If the owner be not knowne, or if one cannot have free and late accelle buts him: then it sught to bee given buto the

poze.

If a man be bound to make relitution for thinges untilly taken, as in voury: Restitution ought to be made to the party vamnissed. So that these two thinges concurre; build taking, and dammage ensuing theropon. In so much that he which stealeth a pawne from a Parchant man, ought to restore it to the Parchant: not withstanding, in the Court of Conscience he might restore it to the owner; so as the Parchant were not thereby dammissed.

Owners dead.

If the person, to tohom Restitution ought to be made be dead: it shall be given to his heires.

Vnknowne.

If the person, from whom any thing hath beine Kolne, bee not knowne, after that a man hath bone his endenour by distingent inquiry: then the thing shall be given to Christ in his pooze members, as Lozd of the whole world.

If the owner be farte villant, and the fix.

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thing with holden, may easily and faith, fully be sent but o him: if the matter be of great balew, it ought to be sent but o the owner, at the costs and charges of the wrongful detainer: if it cannot be sent but o him, and the matter be of small account, it may be given to his kinssolke, or to the bie of some Hospitall, at the bis cretion of some honest person; with this House, that when the owner commeth, it shall be restored but o him.

Viurers.

If an Asurer be in conscience mooned, to restore the mony taken by Asury; and the parties, to whom Restitution ought to be made, bee removed from the place where the Asurer dwelleth: then the Mony may be returned at their own tharges; but if the Asurer remove, then at his charges.

Too good to be true.

Madmen.

The owners ought not alwaies to have their owne restozed : namely, when it might

might turne to their owne harme; as a a (wood taken from a mad man: but it may be referred for his heires.

Dishonest.

Things taken byon buhonest conditions, neede not to be restozed, bulesse they bee gotten by crast or violence; or taken from him, that hath no right to alienate them.

Game.

Thinges gotten by Game, are of like nature: yet in both, the parties may be counsailed to give them to the pooce.

Things found.

Things found, which never had owner, or who never was knowne in the memory of man, or that sares not for them; are his that findes them.

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Treasure,

Treasure.

Concerning Treasure, the right owner subereof is not knowns: if a man finde it in his owne ground, it is the finders: if it bee found in another mans ground, halfe of it is the owners of the ground; the other halfe is his that found it.

If treasure bee found in another mans ground, by diligent search, with consent or licence of him that owes the ground; it is his that findes it, because the other will not seeke it. If a man seeke for treasure, against the will, or without the licence of him that owes the ground: it wholy belongs to the owner of the ground.

If a man know there is treasure in another mans ground, and buy the ground: it seemeth, that the treasure is the buyers. As for those Customes and lawes, whereby treasure found belongeth to the Prince; I purpose not to meddle, neither dos I speake any thing in this whole discourse that is presidicial to the Lawes. Let the learned

Note.

learned Lawyers discusse such cases. Pet Lawes grounded byon reason, sught in conscience to be regarded.

What a man must restore.

Thinges in their property and kind, as also bamages, are to be restored.

If the thing it selfe be to be had, let it be restozed, but selfe the In this case men must feare of scandall oz beware, that they be other danger should come not Fellons of ensue: then may the their own goods; es-worth thereof be repecially, if after his stozed, at the discrepgoods bee taken hee tion of some honest have made any purperson. If the thing suit, by raising hue & it selfe canot be had, cry: otherwise, the or bee made worse, matter being secret the like may bee restewixt the taker and stozed.

without danger re-another mans god, ceiue his own againe, is bound to restore as some think. Lamb. it; whether he have it by god meanes

oz otherwife.

Things

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Things bought bona fide.

Our lawes are otherwife, grounded on this : Rather a mifcheefe, than an inconuenience.

If a man buy an Horse, thinking it to be his that fels bim. and is not: if be thal afterward fell the Hogfe to another: be is bound to reffoze the gaine, & no moze.

Giuen.

Note.

If a Coine Hogie be given a man, and he afterwards fell him : he ought to reffoze the price fully: if he kepe him, hee is bound to reffore him without any price to the owner. Det hee may have action as gainst the feller howfoeuer.

Mala fide.

If a man buy ought by euill meanes. bpon a grædy intent of gaine : he is bound to give the thing, if hee have it; or the balew, if he have it not, together with the gaines be hath got thereby. And although

Abe Kolne from him; pet is be not fre fra-Restitution.

Goods preserued.

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A man, taking the gods of another, one lo with intent to fane it from fpoile oz pes rithing; may lawfully demaund his er? vences.

Of hindrances.

If one biolently 02 bulawfully ffav 02 binder another from obtaining of any commodity, he is chargeable with the dams mage.

A man, letting another from the lawfull dispatch of his honest bufineffe, oz duty; is bound to make amends, at the discretie on of fome honest person.

Creditors.

De that hindzeth a Creditez by bulalv. full meanes (that he cannot demaund his debt of the debter) by delinering him out of pailon, by refcue, or other bulawfull meanes : and generally, hee that is canse of damage to another (especially 154

offet purpose) if the damage be certaine, is liable to all; if bucertaine, as an honest man shall award.

Goods perishing in another mans hands.

If another mans goods perill in his handes, through whose default they are not restored to the Dinner, if the gods thould neverthelesse have perished in the owners handes; in this case hee is not bound to make satisfaction.

But it is otherwise, if the Gods remaining with the owner had not perithed: or if the owner was about to fell them before; or otherwise, to connect them to his owner benefit and commodity.

A man flying from his owne goods.

If a man through ponerty depart or fly his owne house, and from his goods: hee is bound in conscience to restore, and satisse

tilfie for his debts, when he comes to better fate, and hall be able.

Life, Limbes, &c.

In those damages that ensue byon a mans death, wounding, hurting, imprisoning, defaming, ec. Restitution is to be made at the discretion of honest persons; and according to the power and ability of the party.

tatho so defloureth a maiden, either by seducing or by violence, is bound either to marry her, er to make her amends at the discretion of some honest person. If hes promised to marry her, he is bound to doe it, but some great scandall or stander should follow therebyon. But in case shee will not marry him, or her Father be but willing; then he shall satisfe her, as some honest man shall award: but if shee was willing to the fact, he is free from both.

How much ought to be restored.

If the quantity of the matter taken, or of damage

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damage fultained, be certain; he is bound to fatisfie as much: if it be bucertaine, as in injuries and wrongs, then as much as an honest person shall appoint, according to the circumstances of the offence, ec.

He that possesseth any thing that is anothers, where by he is enriched, ought to restoze it wholly, and the increase thereof: deducting out his expences, for getting, kkeping, and preserving the same, and fruits thereof.

Legacies.

The reason of him that payeth not Legacies due many yeares before: who ought to make restitution sor the common dities detained.

Where Restitution is to be made.

If Kellitution bee necessary to; ought bulawfully taken from another: restitution must be made, where the owner may be kept indemnissed; if otherwise, where the

the thing was had.

Of the time of Restitution.

A man having ought that is anothers, Note is bound forthwith to make Restitution. well.

Touching this word (forthwith) buters stand it thus, That a man be fully resolved, and purpose, to restore as soone as conveniently be can. As concerning the persormance of his purpose, and the effecting of his intent, Dee ought to doe it in time convenient; due circumstances conssidered.

This things may excuse a man, from making present rectitution.

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First, the will of the owner granting velay.

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Secondly, ignozance of the reasonables nesse of right, or of the fact.

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Thirdly, want of ability. Touching which point, the opinion of the learned rifeth open fire conclusions.

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The first is, That a man may in entreame necessity, not having any thing but only things necessary for his own like and his, is not bound to make present restitution: because at that time all things are common.

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The second is; De that by making Re-Kitution could not live, according as be commeth his estate, although the owns not being in the like or greater necessity, will not grant time: yet is he not bound to make present Restitution. Postwith standing, hee ought to beware, that his make no néedlesse expences: otherwise in reason he could not be excused.

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The third is, when relitation thould turne to the owners harme, either in respect of his body, or his foule, if relitation were made: he ought not presently to doe it.

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The fourth is, if the same hould tend to a publike danger, or were against a publike commoditie.

5

The fifth is, if it were likely to turne to the last of the Kestazers good name, tho danger of his life of soule, of if thereupon thould follow some grienous sinner present restitution aught not to be made, because these are greater damages.

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The firt is, if present restitution should more

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more burt the bebter, than profit the Cre Ditoz . As if an Artificer, beeing in Debt. Mould feil his twies or infruments of his occupation whereby be getteth his lining in this case he ought not to make present restitution; because in reason be quabt to baue time ainen bim. It thould be other wife if the Creditor were in like fate : he cause no man ought to burt another for his owne benefit . It is otherwise where aman deferreth to reffoze, onely for lucre fake, and not bpon neceffity. Potealle, that if delay thould be hurtfull to the Cres Ditoz: although a man hould anothe the great r loffe in his proper gods; pet at the leaft, the Debtor muft keepe him loffe leffe.

What order and manner is to be kept in making Restitution.

De that is able, ought to make relitive tion to all, without respect of opper, or delay of time.

Dee that cannot restoze to all, let him first restoze things certaine befoze bucer

taint.

Amongs

Note.

Amongst things certaine, let those first be restozed which are in their owne kinde, and another mans; as gods committed to kiepe, and things bought and not paid foz: then, other gods in ozder; as the Lawes and Statutes doe appoint. If it be not as gainst the Law of Pature: and in case there bee sundzy and manifold opinions; the safest is to be followed.

Takers of Mony vpon vie.

He that hath taken Pony byon Alury, if hee have not so much gwds as to satisfie for other lawfull contracts, and the Alurer two; is bound first to satisfie for his lawfull Contracts, with these two conditions: the first, Chat the things taken to ble, be not in their proper kind, as pawns (so, these ought to be restored to the owners paying the Poney;) the second, if by such Contracts the party was not wade pweer, to pay his former blury: as in the promise of a down it might befall, whereby he might become pweer. In this and the like cases, lawful Contracts must give place.

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Vncertaine goods.

If the goods to bereftozed be bicertain then godly countaile and honest adult must direct, enermore provided, that men, in great distresse pitied, bee not by sufferance emboldened to had attemps.

Secret things.

Things secretly taken to be, ought carefully to bee restozed, that the parties honest reputation and god name be not hurt: but publike blurie ought publikely to be restozed, for by restitution a god name is recovered.

Good fame and name.

If one defame another by inst course of aw, there no Restitution lieth: but if he doe't brinkly and british, let him make amends, by acknowledging that he spake butruly, or concealed the truth. Whe words repeated may doe more harme the god, there ought to be note acknowledge ment.

If a mans good name cannot beerecoursed, restitution is to be made some
other way: and the damage that hath
ensued byon desamation, ought to bee
satisfied; at the discretion of some boness person. The like may bee said of
standerous libels: and the restitution
ought to bee made there, where the
sander was raised, whether publikely
stander was raised, whether publikely
stander was raised, whether publikely

If thou findest any thing belonging to an other man, and makest not restitution thereof but o him: the very with holding is meere rapine. For herein thou hast performed thy ottermost; and hast not done more, because thou couldest not. To deny a man that which is his owne, is all one as if thou habst taken it from him.

If thou confesse the selfe an offenber, in taking and betaining an other mans goods, and thereof outwardly repent thee: pet if, having it in thy power to make restitution, thou still betaine them; thy repentance, howsoever thou makest them thereof, is not true, but fained.

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fained. But without true repentance there is no remission: and his repentance tante is good induced, which restores the tausetherof to the right owners; alwaies provided that the Penitent have the abilitie to persorme it.

Pany account it no tinne at all, to betaine an other mans goods if they chanes to finde them: byon this ground, That G D D hath sent them; and therefore to whome thould they reflore them? But let such men know, That it is a finne not much differing from thest, to withhold from the Divner even that which they finde.

De is bound to restoze the damage, that another sustaineth, which being therebuto obliged by his office or place, both not himber the same; as is the case of a Rudge, a Father. or Autor: except the hazard of his own assaires, which he ought to prefer before other mens, be the cause of his omission. But he that hereunto is not tred by his office, is free from such obligation.

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concealing the truth, or not speaking the whole truth, is bound to satisfie the damage sustained by reason of such his concealement or filence.

He that fraudulently occupieth another mans ground, is bound to satisfie for the fruits received, which otherwise the Dinner himselfe might have gathered, deducating onely his necessarie expences, and consideration of his paines, taken, and bestowed upon it. But the case to otherwise, in profit arising by the of another mans many: for Restitution thereof is not to be made, whies it may appeare that the Dinner himselfe could have gotten so much by it.

D: that makes a lawfull promise, and soth not performe it; ought to satisfie sor Damage, sollowing byon the breach of it.

De that taketh any reward to doe entil, if he have not done it, ought to make Kestitation; but if it he committed, her is at liberty: howbeit D. Angustine he of opinion in his 54. Criftle: That an Advocate is hound

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He that hindreth another in the free donation of collation of a Benefice, so it bee done without violence and fraud; is not bound at all to satisfie for it; because as pet no right of title thereunto is gotten: Like wise he that procureth a will to be altered, and that with a crafte intention; yet because there is no setted right thereof, as being in the power of the testator to change it; the partie so doing needth not so make any satisfaction: accepting to sundry mens opinions.

But others there are of a contrarie indgement, affirming, That such men are worthis bound to make Restitution, because they offend against the rule of Instice.

Things committed contrarie to Charitie, pet according to Justice; require neither Restitution nor Satisfaction.

Mhere two men hane hurt one another alike: where two parties have perained each

eachother: there is no fatisfaction to bee awarded.

The leastaring man is not bound to refloze those things, that hee casteth into the Dea; which being kept aboozd might bee lost not with flanding, and bee occasion of the lose both of thip and passengers.

Prither is he bound to make Kellitution; who after long and diligent fearth for his Creditor, and not finding him, diffributeth his Debt among the poore: if it be done by authorities a Judge, and not of too great moment.

The heire of an executed murderer, is bound to relloze the damage suffained by the heire of the murded; yea although the partie damnified be not begent.

Debt kept back from aspend theist, and reserved either to help him in his extremstie, or to the ble of his heires, is not of necessitie to be paid but othe Prodigat. Some there are notwithstanding of a contrarie opinion, that positively hold, That it ought to be restored but o him; and in like

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cafe to any other, howforner they abuls their owne: as long as his of their neighbour be not wronged by it.

De that hath any thing in custody which is stollen from a thiefe, ought to restoze it to the right Dwner; buless the sears of death restraine him.

So much is to be restozed, as is received. For Mestilution maketh an evensuelle.

Stolne goods bought with an entil conscience, ought to be resposed: yea although by Law the sale may be instified.

It is not lawfull to detaine any thing from the Dwner, any longer, than till we finde opportunitie to reffere it.

Of three the most especiall vegrees of repentance, this of Restitution is the most supreme: like as in the three Theologicall vertues, Charitie obtaineth the highest place. And this dignitie is principally attributed but them aboue

abone the rell of their afforiates in respect of the end.

For as faith without Charitie is bead : fo Repentance without Restitue tion is a vayour; neither of them conburing to the vieveled end. Suffer not the felfe therefore to bee carried away. either by thine owns frailtie, or the Suggestion of Sathan, from performing this most necessarie and Chaistian bu tie. For indeede, as Charitie Demonfrates faith : to Relitution makes Charitie verfect. And how can bee thinke to beeat veace with & DD, that makes no fatisfaction for wrong boing? Such mens forrow for their finne is all one with that of Cains, who in the quitt of bis confeience confessing bis of fence, madeit (collaterally) bis requeff, That no man might kill him. This top potall beath is it which they feare: the fpirituall teath they respect not. Werily I am pe: fmabed . Ebit with fuch men, the old beathen Sillius is of far moze credit than any of the holy Wiziters either of the old or new Testament. Wis opis nion was, that by denying God and his pcmer

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power hee thrived the better. And can we indge otherwise of this generation, that make iniquities their practise, and seate themselves in the chaire of Scorners? Bod send them better mindes, if they be not already belivered over into reprobate sense, that they may cry Bod mercie, and obtains it, by rendring to every man that which is his owne. With such sacrifice Bod is pleased, better then with the fat of bullockes. But now briefely to conclude: as I first intended no long diseaurse, so I will make a short end.

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The Conclusion.

where the state, perfon or fame of any man suffereth detri-

ment or losse, there ought the partie delinquent to make Restitution. But in these daies, Detention of other mens goods hath got such an habit amongst the most sort of people, through the long vse and ptactise of it: that it is not onely reputed no sinne at all; but even those few, whom Gods holy Spirit toucheth

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eth with a true feeling of their offences in this kinde, and thereby moueth them to make this holy and religious satisfaction, are by those that would seeme wife in this point, accounted meere fooles and of too scrupulous a conscience. Hence oftentimes it commeth to passe, that not onely themselues runne headlong on in their wicked courses; but others also by their meanes are drawne to the same vngodlinesse. A. mongst the rest of many friuolous excuses, which carnall men are wont to alleadge against this spirituall counsell of Restitution; there is a politicke shame or disgrace pretended, which of necesfitic

fitie must light vpon the partie restoring.

Now to avoide this shame, which puts sinne to flight, and auaileth greatly to the perfecting of the new Man within vs : they stop their eares at all godly admonition and heape one finne vpon another; first, doing wickedly, and afterwards taking delight therein. Restitution therefore to these kinde of people, is a most vnwelcome guest : they may ill abide to see her in the companie of others; and therefore by no meanes will entertaine her themselues. But let them sooth their owne opinions, and fet light by Gods judgements as long as plea-

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feth them : the leffe shame they haue in this world before men, of their close and vniust gettings, and the leffe account they make of Restitution or making amends here; the greater wil be their horror and confusion in the next, & the stricter reckoning will God exact at their hands. For such persons this Treatise was not framed, as being a Pearle not to be cast before such Swine. To the children of God in Christ Iesu, it is directed, that are capable of goodnes through him, and enabled to bring forth fruits worthy of amendment of life; that walke not after the flesh, but after the spirit. To them it is given to know the mysteries of the Kingdome hey of and t ke ere: and tricat. this eing fuch d in t are nim, ruits that after n to ingome

dome of God, and to walke in his wayes. In briefe therefore I addrelle my selfe to you my deare brethren: exhorting you to feale vpvnro your foules and confciences the atturance of the hope that is in you, by putting off the Old Man, and putting on the New; walking before God in holinesse and uprightnes of living, as becommeth his children: For the attaining whereof, to the glorie of God, and the good of his Church; I thought it very behouefull to write this short Discourse uppon Restitution; which is so especiall a part of Christian dutie, and yet in these times so little regarded. Thus wishingfrom my very heart. That

all men would beware how they offer wrong, and after offences past to make satisfaction : likewise that those which suffer wrong, would not be carried headlong to feeke reuenge, but alwaies ende uonr to preferue vnity in the bond of peace; I commend these my labors, such as they be, to your Chri stian confiderations : defiring God, fo to imprint the meditation hereof in your mindes, that if you hauegotten any thing wrongful ly, you may bee moued with Za cheus to make Restitution; Perillandons Christian States

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